IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Crl.Rev.Pet.No. 2166 of 2007()

CRA.167/2000 of ADDL. SESSIONS COURT-II, MAVELIKKARA
CC.333/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, CHENGANNUR

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REVN. PETITIONER: APPELLANT/ACCUSED

SUGATHAN,
AGED 37 YEARS,KUNJAN POOVAN,CHAKKODI,
KIZHAKKATHIL,NANNAD,
CHENGANNUR,
ALAPPUZHA (DISTRICT.)

BY ADV. SRI.P.VINODKUMAR

RESPONDENTS: RESPONDENT/COMPLAINT

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM,.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2166 OF 2007 A

Dated this the 7th day of August, 2007

O R D E R

The revision petitioner, who was the accused in C.C.No.333/1997 on the file of the JFCM-I, Chengannur for offences punishable under sections 279, 337 and and 338 IPC and sections 134(a) and 134(b) of the Motor Vehicles Act, challenges the conviction recorded and the sentence passed against him concurrently by the courts below

2. The case of the prosecution can be summarised as follows:-

On 30.4.1997 at about 10.45 p.m. the accused drove a goods autorikshaw bearing registration No.KL-4/4840 from north to south along the M.C.Road at Pravinkood junction in a rash and negligent manner and dashed against the motor cycle bearing No.KL-3C/1586 on which PW1 was travelled from south to north with PW2 as the pillion rider along western side of the said road and the accused thereby caused injuries including fracture of the collar bone of PW1 and injuries to PW2.

3. The courts below have concurrently found the revision

petitioner guilty of the offences alleged against him. Eventhough the learned counsel for the revision petitioner assailed the conviction recorded against the revision petitioner, I am not inclined to interfere with the same since the conviction has been recorded after a careful evaluation of the oral and documentary evidence in the case. The road at the relevant point is running north-south and is having a width of 7 metres for its road margin. The autorikshaw driven by the revision petitioner was coming from north to south and taking a turn at Pravinkood junction to the west resulting in the motor cycle driven by PW1 who was coming from south to north hitting against the autorikshaw. The point of hit is at a spot towards the western tarred edge of the road indicating prima facie that it was the revision petitioner who was at fault. The the conviction was, therefore, rightly entered against the revision petitioner and the same is confirmed.

4. What now survives for consideration is the question of adequacy of the sentence imposed on the revision petitioner. Having regard to the facts and circumstances of the case and the situation under which the revision petitioner was placed when he took the turn, I do not think that penal servitude by way of

incarceration is warranted and that a sentence of imprisonment till the rising of the court and an appropriate fine or compensation will meet the ends of justice. Accordingly, for his conviction under sections 279, 337 and 338 IPC, the revision petitioner is sentenced to imprisonment till the rising of the court and to pay fine of Rs.2,000/- (Rupees two thousand only), Rs.3,000/- (Rupees three thousand only) and Rs.4,000/- (Rupees four thousand only) respectively. On default to pay the fine, he shall suffer simple imprisonment for two months for each default. For the conviction under section 134(a) and 134(b) of the M.V. Act he shall undergo imprisonment till the rising of the court and shall pay a fine of Rs.1,000/- (Rupees one thousand only). From out of the fine amount, a sum of Rs.7,500/- (Rupees seven thousand five hundred only) shall be paid to PW1 and a sum of Rs.3,000/- (Rupees three thousand only) shall be paid to PW2 by way of compensation under section 357(1) Cr.P.C.

In the result, this revision is disposed of confirming the conviction entered and modifying the sentence as above.

(V. RAMKUMAR, JUDGE)

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